

# BOARD OF COUNTY COMMISSIONERS

## AGENDA ITEM SUMMARY

Meeting Date: August 18, 2004

Division: Growth Management

Bulk Item: Yes      No X

Department: Planning

### AGENDA ITEM WORDING:

Public hearing to adopt an ordinance amending the Monroe County Land Development Regulations by amending Section 9.5-317 - Standards for issuance of building permits in areas of special flood hazard. (One public hearing required.)

### ITEM BACKGROUND:

Recent changes to the flood plain regulations of the Monroe County Land Development Regulations have revealed a need for additional detail or comprehensiveness with regard to properties with residential structures that abut Airport Districts (AD). The current regulation that restricts enclosing space below elevated buildings with opaque material to a maximum of 299 square feet prohibits property owners abutting AD the right to enclose areas beneath residential structures for the parking and storage of personal aircraft, which historically has been allowed. This amendment will legitimize those existing structures and prevent the creation of new non-conforming structures. The Planning Commission recommended approval of the amendment at a regular scheduled meeting on July 7, 2004.

**PREVIOUS REVELANT BOCC ACTION:** Ordinance No. 037-2003, adopted on October 15, 2003 established a maximum of 299 square feet of space to be enclosed.

### CONTRACT/AGREEMENT CHANGES:

N/A

### STAFF RECOMMENDATIONS:

APPROVAL

TOTAL COST: N/A

BUDGETED: Yes      No     

COST TO COUNTY: N/A

SOURCE OF FUNDS: N/A

REVENUE PRODUCING: Yes      No X AMOUNT PER MONTH      Year     

APPROVED BY: County Atty X OMB/Purchasing N/A Risk Management N/A

DIVISION DIRECTOR APPROVAL:

  
Timothy J. McGarry, AICP

DOCUMENTATION: Included X To Follow      Not Required     

DISPOSITION:     

AGENDA ITEM # Q1

Revised 2/27/01



**MONROE COUNTY  
LAND DEVELOPMENT REGULATIONS  
TEXT AMENDMENT**

**BOARD OF COUNTY COMMISSIONERS  
KEY LARGO LIBRARY  
AUGUST 18, 2004**

## **PROPOSED TEXT AMENDMENT**

### **RECOMMENDATIONS**

Staff:	<b>Approval</b>	May 5, 2004	Staff Report
DRC:	<b>Approval</b>	June 21, 2004	Resolution #D11-04
PC:	<b>Approval</b>	July 7, 2004	Resolution P36-04

## **DRAFT BOCC ORDINANCE**

**ORDINANCE NO. 2004**

**AN ORDINANCE AMENDING SECTION 9.5-317(b)(1)d.(i) (STANDARDS FOR THE ISSUANCE OF BUILDING PERMITS IN AREAS OF SPECIAL FLOOD HAZARD), MONROE COUNTY CODE; PROVIDING FOR ADDITIONAL DETAIL AND COMPREHENSIVENESS WITH REGARD TO RESIDENTIAL STRUCTURES THAT ABUT AIRPORT DISTRICTS (AD); PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES WHEN EFFECTIVE; AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, the Monroe County Board of County Commissioners recognizes that recent changes to Section 9.5-317, Monroe County Code (MCC), have placed constraints on the size of legal enclosures beneath residential structures; and

**WHEREAS**, these changes have created a need for additional detail and comprehensiveness specifically with regard to Section 9.5-317(b)(1)d.(i); and

**WHEREAS**, the Monroe County Board of County Commissioners recognizes that the amendment will prevent the creation of non-conforming structures by allowing owners of residential structures abutting Airport Districts to have enclosures with opaque materials larger than 299 square feet for the express purpose of parking and storing personal aircraft; and

**WHEREAS**, the Monroe County Board of County Commissioners recognizes that the proposed amendment is consistent with Section 9.5-511(d)(5)b.(v); and

**WHEREAS**, the Monroe County Board of County Commissioners recognizes that the proposed text amendment is consistent with the goals, policies, and objectives of the Monroe County Year 2010 Comprehensive Plan ; and

**WHEREAS**, the Monroe County Board of County Commissioners recognizes that the Year 2010 Comprehensive Plan has been deemed to be consistent with Chapters 9J-5 and 9J-12 F.A.C. and Chapter 163 Florida Statutes by the State's Land Planning Agency, the Department of Community Affairs (DCA); now, therefore

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, that**

Section 1. Section 9.5-317(b)(1)d.(i) of the Monroe County Land Development Regulations, is hereby amended to read as follows (additions and deletions shown in underline and ~~strikethrough~~ format):

Section 9.5-317(b)(1)d.(i)

Only a maximum of 299 square feet of the space shall be enclosed with opaque materials. Any remaining portion of an enclosed area of more than 299 square feet shall not be enclosed with screen or lattice. This limitation shall not apply to parking of aircraft beneath residential buildings abutting Airport Districts. Areas of 300 square feet or more, enclosed with opaque materials, existing on the effective date of this ordinance shall be deemed conforming as to the provisions of this paragraph; however, such enclosures shall not be expanded or substantially improved unless they are brought into compliance with this division.

Section 2 If any section, subsection, sentence, clause, item, change, or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such validity.

Section 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 4. This ordinance shall be filed in the Office of the Secretary of State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administrative Commission approving the ordinance.

Section 5. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 6. This ordinance shall be transmitted by the Planning Department to the Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes.

Section 7. The Director of Growth Management is hereby directed to forward a copy of this ordinance to the Municipal Code Corporation for incorporation in the Monroe County Code of Ordinances once this ordinance is in effect.

**(The remainder of this page intentionally left blank)**

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF  
MONROE COUNTY, FLORIDA, AT A REGULAR MEETING OF SAID BOARD HELD ON  
THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2004.

Mayor Murray Nelson  
Mayor Pro Tem David Rice  
Commissioner Charles "Sonny" McCoy  
Commissioner George Neugent  
Commissioner Dixie Spehar

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\_\_\_\_\_  
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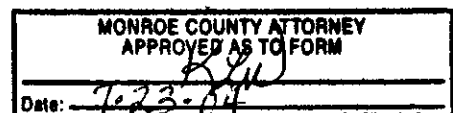
BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By \_\_\_\_\_  
Mayor Murray Nelson

(Seal)

ATTEST: DANNY KOHLAGE, CLERK

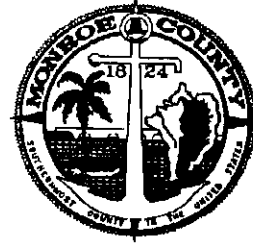
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DEPUTY CLERK



## **BOCC STAFF REPORT**



# Memorandum



TO: Board of County Commissioners

FROM: K. Marlene Conaway, Director of Planning

DATE: July 21, 2004

RE: Monroe County Land Development Regulations Text Amendment

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## STAFF REPORT

### BACKGROUND

Recent changes to the flood plain management regulations of the Monroe County Land Development Regulations have revealed a need for additional detail or comprehensiveness with regard to properties with residential structures that abut Airport Districts (AD). The current regulation that restricts enclosing space below elevated buildings with opaque material to a maximum of 299 square feet prohibits property owners abutting AD the right to enclose areas beneath residential structures for the parking and storage of personal aircraft, which historically has been allowed.

### ANALYSIS

The current language of Section 9.5-317(b)(1)d.(i) would create additional non-conforming structures that heretofore have been considered legal, lawfully established conforming structures. Objective 101.8 of the Monroe County Year 2010 Comprehensive Plan states that "Monroe County shall eliminate or reduce the frequency of uses which are inconsistent with the applicable provisions of the land development regulations and the Future Land Use Map (FLUM), and structures which are inconsistent with applicable codes and land development regulations." This text amendment will prevent the creation of new non-conforming structures. The proposed text amendment is consistent with the goals, policies and objectives of the Year 2010 Comprehensive Plan. Monroe County is designated as an "Area of Critical State Concern" and as such is governed by Chapters 9J-5 and 9J-12 of the Florida Administrative Code (F.A.C.) and Chapter 163 of the Florida Statutes. The proposed text amendment is consistent with the F.A.C. and the Florida Statutes.

Section 9.5-317(b)(1)d.(i) additions and deletions shown in underline and ~~striketrough~~ format.

Only a maximum of 299 square feet of the space shall be enclosed with opaque materials. Any remaining portion of an enclosed area of more than 299 square feet shall not be enclosed with screen or lattice. This limitation shall not apply to parking of aircraft beneath residential buildings abutting Airport Districts. Areas of 300 square feet or more, enclosed with opaque materials, existing on the effective date of this ordinance shall be deemed conforming as to the provisions of this paragraph; however, such enclosures shall not be expanded or substantially improved unless they are brought into compliance with this division.

#### **FINDINGS OF FACT**

1. Based on the Monroe County Code, staff finds that the proposed amendment is consistent with Section 9.5-511(d)(5)b.(v) of the Monroe County Code.
2. Based on the Monroe County Year 2010 Comprehensive Plan, staff finds that a text amendment to Section 9.5-317 is needed to prevent the creation of new non-conforming structures.
3. Based on the Monroe County Year 2010 Comprehensive Plan, staff finds that the proposed amendment is consistent with and furthers the goals and objectives of this plan.
4. Based on the Florida Administrative Code, Florida Statutes, and the Principles for Guiding Development, staff finds that the proposed changes are consistent with F.A.C. Chapters 9J-5 and 9J-12, Florida Statutes, Chapter 163, and Chapter 380.

#### **RECOMMENDATION:**

The Planning and Environmental Resources staff recommends **approval** of the proposed text amendment of the Monroe County Land Development Regulations.

**PLANNING COMMISSION RESOLUTION P 36-04**

**PLANNING COMMISSION RESOLUTION #P36-04**

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION RECOMMENDING **APPROVAL** TO THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS OF THE REQUEST FILED BY THE MONROE COUNTY PLANNING AND ENVIRONMENTAL RESOURCES DEPARTMENT TO AMEND THE MONROE COUNTY CODE, REVISING SECTION 9.5-317(b)(1)d.(i) (STANDARDS FOR THE ISSUANCE OF BUILDING PERMITS IN AREAS OF SPECIAL FLOOD HAZARD) TO PROVIDE FOR ADDITIONAL DETAIL OR COMPREHENSIVENESS WITH REGARD TO RESIDENTIAL STRUCTURES THAT ADJACENT AIRPORT DISTRICTS (AD) .

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**WHEREAS**, recent changes to Section 9.5-317, Monroe County Code (MCC), have placed constraints on the size of legal enclosures beneath residential structures; and

**WHEREAS**, these changes have created a need for additional detail and comprehensiveness specifically with regard to Section 9.5-317(b)(1)d.(i); and

**WHEREAS**, the Section 9.5-511 delineates the mechanism to amend the Monroe County Code via a "text amendment"; and

**WHEREAS**, a text amendment to Section 9.5-317(b)(1)d.(i) is needed to prevent the creation of non-conforming structures; and

**WHEREAS**, the Development Review Committee met on June 21, 2004 and recommended approval of the proposed text; and

**WHEREAS**, during a regular meeting held on July 7, 2004, the Monroe County Planning Commission conducted a public hearing on the proposed text amendment; and

**WHEREAS**, the Planning Commission was presented with the following information, which by reference is hereby incorporated as part of the record of said hearing:

1. Staff report prepared by J. G. Buckley, Senior Planner and Dianne Bair, Special Projects Administrator, dated June 22, 2004; and
2. Discussion of Growth Management Staff; and
3. Comments by the Planning Commission; and

**WHEREAS**, the Planning Commission has made the following Findings of Fact on the evidence presented:

1. Based on the Monroe County Code, we find that the proposed amendment is consistent with Section 9.5-511.
2. Based on the Monroe County Year 2010 Comprehensive Plan, we find that the proposed amendment is consistent with and furthers its goals and objectives.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of Monroe County, Florida, that the preceding findings of fact support its decision to recommend **APPROVAL** to the Monroe County Board of County Commissioners of the revisions to the text of the Monroe County Land Development Regulations Section 9.5-317(b)(1)d.(i) as requested by the Monroe County Planning and Environmental Resources Department as follows:

Additions and deletions are shown in underline and ~~striketrough~~ format.

Section 9.5-317(b)(1)d.(i)

Only a maximum of 299 square feet of the space shall be enclosed with opaque materials. Any remaining portion of an enclosed area of more than 299 square feet shall not be enclosed with screen or lattice. This limitation shall not apply to parking of aircraft beneath residential buildings abutting Airport Districts. Areas of 300 square feet or more, enclosed with opaque materials, existing on the effective date of this ordinance shall be deemed conforming as to the provisions of this paragraph; however, such enclosures shall not be expanded or substantially improved unless they are brought into compliance with this division.

**PASSED AND ADOPTED** by the Planning Commission of Monroe County, Florida at a regular meeting held on the 7th day of July, 2004.

Chair Lynn Mapes  
Vice Chair Denise Werling  
Commissioner Jim Cameron  
Commissioner Julio Margalli  
Commissioner David Ritz

YES  
YES  
YES  
YES  
YES

PLANNING COMMISSION OF MONROE COUNTY, FLORIDA

By \_\_\_\_\_  
Lynn Mapes, Chair

Signed this \_\_\_\_ day of \_\_\_\_\_, 2004

**DEVELOPMENT REVIEW COMMITTEE  
RESOLUTION #D 11-04**

**DEVELOPMENT REVIEW COMMITTEE RESOLUTION  
NO. D11-04**

A RESOLUTION BY THE MONROE COUNTY DEVELOPMENT REVIEW COMMITTEE RECOMMENDING **APPROVAL** TO THE PLANNING COMMISSION OF THE REQUEST FILED BY THE PLANNING AND ENVIRONMENTAL RESOURCES DEPARTMENT TO AMEND THE MONROE COUNTY CODE, SECTION 9.5-317(b)(1)d.(i) (STANDARDS FOR ISSUANCE OF BUILDING PERMITS IN AREAS OF SPECIAL FLOOD HAZARD) TO PROVIDE FOR ADDITIONAL DETAIL OR COMPREHENSIVENESS WITH REGARD TO RESIDENTIAL STRUCTURES THAT ADJACENT AIRPORT DISTRICTS.

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**WHEREAS**, recent changes to Section 9.5-317, Monroe County Code (MCC), have placed constraints on the size of legal enclosures beneath single-family residences; and

**WHEREAS**, these changes have created a need for additional detail and comprehensiveness specifically with regard to Section 9.5-317(b)(1)d.(i); and

**WHEREAS**, Section 9.5-511 delineates the mechanism to amend the Monroe County Code via a "text amendment"; and

**WHEREAS**, a text amendment to Section 9.5-317(b)(1)d.(i) is needed to prevent the creation of non-conforming structures; and

**WHEREAS**, during a regular scheduled meeting held on June 21, 2004 the Development Review Committee (DRC) of Monroe County, Florida, conducted a review and consideration of the proposed text amendment to the Monroe County Code, Section 9.5-317(b)(1)d.(i); and

**WHEREAS**, the Development Review Committee reviewed the following information:

1. The staff report prepared by J. G. Buckley, Senior Planner and Dianne Bair, Special Projects Administrator dated May 5, 2004; and
2. Comments made by the Development Review Committee.

**NOW THEREFORE, BE IT RESOLVED BY THE DEVELOPMENT REVIEW COMMITTEE OF MONROE COUNTY, FLORIDA**, that the preceding findings support its decision to recommend **APPROVAL** to the Monroe County Planning Commission of the proposed text amendment to the Monroe County Code as follows:

The new language is shown underlined.

Section 9.5-317(b)(1)d.(i)

Only a maximum of 299 square feet of the space shall be enclosed with opaque materials. Any remaining portion of an enclosed area of more than 299 square feet shall only be enclosed with screen or lattice. This limitation shall not apply to parking of aircraft beneath residential buildings abutting Airport Districts. Areas of 300 square feet or more, enclosed with opaque materials, existing on the effective date of this ordinance shall be deemed conforming as to the provisions of this paragraph; however, such enclosures shall not be expanded or substantially improved unless they are brought into compliance with this division.

**PASSED AND ADOPTED** by the Development Review Committee of Monroe County at a regular meeting held on the 21<sup>st</sup> day of June, 2004.

J. G. Buckley, Senior Planner	<u>YES</u>
Ralph Goulby, Sr. Administrator of Environmental Resources	<u>YES</u>
Department of Health (by FAX)	<u>YES</u>
Department of Public Works (by FAX)	<u>YES</u>
Department of Engineering (by FAX)	<u>YES</u>

DEVELOPMENT REVIEW COMMITTEE OF MONROE COUNTY, FLORIDA

By \_\_\_\_\_  
Aref Joulani, DRC Chair

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2004